

18 July 1958

BRIEF FOR: The CIA Career Council

SUBJECT: Uniform Overtime Compensation Policy

1. PROBLEM:

To devise a uniform overtime compensation policy.

2. FACTS BEARING ON THE PROBLEM:

a. The current provisions applicable to all civilian officers and employees in or under the executive branch of the Federal government with respect to compensation for overtime work, for night and holiday work, and for so-called premium compensation are set forth in the "Federal Employees Pay Act Amendments of 1954" (Title II of Public Law 763-83d Congress; 5 USCA 911, 912) which amends Title II of the Federal Employees Pay Act of 1945. The Central Intelligence Agency is not listed among the exemptions to the 1945 Act as amended, including the 1954 Act.

b. Regulation  dated 25 July 1955, entitled "Hours of Work", interprets the law and sets forth the administrative procedures in accordance with which overtime compensation may be authorized and paid. Paragraph 7b of this regulation states: "When an employee is required to perform overtime or holiday work, he will be reimbursed or otherwise compensated for such work at the rates established by law and subject to the limitations provided by law." This same statement is made in Paragraph 3c of  dated 27 November 1957.

c. The law provides that stand-by duty may be compensated for in accordance with the provisions for premium pay and at any rate

up to 25% per annum of an individual's salary. This provision of law has not been used by the Agency except for firefighter personnel. Instead, stand-by duty has been compensated for in accordance with a procedure approved by the Comptroller General.

STAT d. [ ] which is repeated in [ ] STAT  
begins with the following statement: "In accomplishing the mission of CIA, each of us at the professional level has a continuing responsibility to insure that his duties are properly discharged, regardless of the time required to get the job done. In this connection, overtime performed in the carrying out of normal duties is considered part of the job." The Notice goes on to distinguish between work which may be regarded "as part of the job" and work which merits overtime compensation.

e. The Inspector General has proposed an overtime and compensatory leave policy as follows:

(1) that overtime will be paid all employees through GS-11; (this assumes that overtime is worked only with the specific authorization of the supervisor);

(2) that employees in the GS-12 through GS-15 grade levels will be permitted to take compensatory time off if the work-load permits;

(3) that all employees above GS-15 will take neither overtime pay nor compensatory time off;

(4) that accurate work records will be kept on all overtime and unused leave for all grades.

[REDACTED]

rate of 15% of the basic GS-9 salary in accordance with the provisions of the Federal Employees Pay Act governing unscheduled and unsupervised overtime. This would reimburse these individuals at the rate of about \$800 per annum whereas at present they may be paid upwards to \$1,600 per annum for overtime.

g. Clandestine work requires that individuals be on duty at various times during the day and night. When combined with cover employment, these odd hours of work add up to a substantial amount of overtime worked in the field. Furthermore, the arranging of secure meeting places, surveillance, counter-surveillance and other necessary techniques are time-consuming. Good supervision can reduce overtime but it cannot eliminate it.

h. Persons assigned overseas receive various fringe benefits, including free housing, medical care, and a post differential where applicable. Some, in addition, have [REDACTED] and representational allowances.

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i. The case officer assigned overseas is thereby relieved of many of the responsibilities that must be assumed by the head of a household on duty in Washington and, therefore, is free to devote extra time to his work without reducing the amount of time which he would have for recreation beyond reason.

j. Whatever consideration is given by the Bureau of the Budget, the Civil Service Commission and the Congress to the Agency's early retirement plans will be based in part at least

in recognition of the alleged financial sacrifices accepted by persons serving overseas. Our case for early retirement will, therefore, be weakened if overtime payments made to persons overseas are in any way unreasonably generous or loosely administered.

k. The administration of overtime compensation is a time-consuming chore and a real burden to administrative staffs assigned overseas.

l. Some stations overseas pay overtime compensation to persons in the professional grades; others don't. Generally large stations, equipped as they are with strong administrative staffs, are generous in their payment of overtime compensation whereas the smaller stations are not. Furthermore, stations which afford a post differential, the smaller stations again, do not pay much in the way of overtime compensation.

m. Persons assigned to stations where overtime compensation is not paid do not necessarily wish to claim overtime on their own behalf but they do consider payment of overtime compensation made at other stations to be unjustified.

n. In certain situations, individuals are exposed to hazardous and trying circumstances and are on a continuous on-call basis for periods of days or weeks.

o. Authority exists for the payment of lump-sum settlements over and above base pay for unusual tours of duty.

p. There are many individuals who, although they work overtime, believe it to be beneath their dignity to request compensation for this work.

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q. There are offices and units at Headquarters that pay overtime compensation to all persons in grades up through GS-15 who are called upon to perform extra work.

r. Agency rates of pay are high as compared with the average rates paid in the Federal establishment.

s. The purchasing power of government pay has declined steadily during the past twenty years despite various pay increase bills that have been passed.

t. Promotion rates in the middle and higher grades may be expected to slow down.

u. The Agency has created a Career Staff and a number of Career Services established along occupational lines. Neither the Career Staff nor any of the Career Services are, however, supported by special legislative provisions such as those that apply to the foreign service of the State Department or to the military services.

v. Because of the unusual circumstances of employment and work in this Agency, serious consideration is being given to the introduction of a revised system of salary administration.

w. It is accepted management doctrine that it is wrong to encourage a person to spend too much time at work. Efficiency goes down during any single long tour of duty and, over a period of time, health, attitude, and basic resiliency suffer.

x. Failure to compensate an individual for peak-load work tends to result in mal-administration of promotion policy. An essential element in overtime pay is the use of this device to

prevent promotions from being made as a reward for the acceptance of a heavy and time-consuming work-load and not as a recognition of true professional growth.

3. DISCUSSION:

a. Regulation [ ] is comprehensive, clear, and sound as far as it goes. Compensation for overtime work can be handled efficiently and equitably on the basis of this regulation in all units where work is directly supervised.

b. It is in those elements of the Agency primarily engaged in overseas or investigative work that the administration of this regulation has been a source of trouble and concern. Central to all of the various reservations that are expressed concerning the payment of compensation for overtime work overseas is the very honest recognition that it would be wrong to make full payment for every hour of overtime that could theoretically be claimed by persons engaged in or working in support of clandestine operations. Overseas, it is impossible to draw a sharp distinction between being on the job and away from the job. Added to this, the very nature of the work of the clandestine services requires people to think in "service terms" rather than to regard themselves simply as employees whose ultimate responsibility is to be on the job and work hard when told to do so. Even [ ] where overtime compensation is paid generously, it is recognized that the number of hours authorized must be established arbitrarily and it is accepted by all concerned that case officers will do all the work the job demands regardless

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of the amount of time it takes. Finally, it must also be recognized that, especially among case officers in the medium grades, a good deal of time is spent learning the job. Whereas the analyst or reports officer may devote a good number of hours per week reading unclassified material at home in support of his work and in the interests of his professional growth, the case officer and operator can only accomplish the same thing by being in the office or in the company of a senior case officer.

c. As a result of the difficulties caused by the apparent inapplicability of Regulation  to our overseas and investigative work, there have developed three general positions concerning overtime.

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(1) One strong body of thought contends that professional intelligence officers and administrative officials in the medium and higher grades should not claim overtime compensation. Proponents of this position favor the development of a strong career concept in the Agency. They regard overtime compensation as being unsuited to a career service. They feel that in order to have a career service that means anything those persons who belong to it must be willing to forego some of the advantages associated with regular civilian employment with the Federal establishment.

(2) Exactly the opposite position is taken by another important group in the Agency. It is their view that the Agency is called upon to administer the provisions of law

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pertaining to compensation for overtime work and that this can be done efficiently by exercising better managerial and supervisory techniques.

(3) The [ ] proposal that compensation for overtime work be handled in accordance with the provisions for premium pay can be regarded as a compromise position. It provides for the payment of overtime compensation within limits, it implicitly requires that intelligence officers be on duty when and where needed, and it places a limit on the amount of money to be paid to the individual.

d. It is generally recognized that pay for periods of continuous on-call duty is not properly overtime pay but should be handled separately.

#### 4. RECOMMENDATIONS:

a. Compensatory time off be used in lieu of monetary payment for overtime whenever possible.

b. All persons at headquarters [ ] be compensated in accordance with Regulation [ ] except as indicated below.

c. Persons at headquarters or [ ] in grades GS-11 through GS-15 not draw overtime compensation for work performed before the official beginning of the work-day or after the official close of business unless such work lasts for two hours or longer. Compensation for all other overtime work performed by persons in this group be calculated at the GS-9 hourly overtime



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rate as provided by Regulation  but that the aggregate amount paid to any one individual in any one year not exceed 15% of the annual base pay of a GS-9.

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d. Persons serving overseas in grades GS-10 and below, except junior intelligence officers, be compensated for overtime in accordance with

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e. Junior intelligence officers and all persons in grades GS-11 through GS-15 serving overseas be paid for overtime work in accordance with the following formula:

(1) Fifteen per cent of employee's base pay not exceeding the base GS-9 rate for sustained, independent, and productive work involving extensive overtime; to be paid to not more than 25% of such personnel at a given station or base.

(2) Ten percent of employee's base pay not exceeding the base GS-9 rate for sustained, productive work involving extensive overtime; not more than 50% of such personnel at a given station or base may be paid at this rate and the 15% rate.

(3) Five per cent of the employee's base pay not exceeding the base GS-9 rate for sustained, productive work involving less overtime than above; not more than 75% of such personnel at a given station or base may be paid at this and the higher rates.

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f. Duty officer assignments be compensated for at the rate of \$10 per tour.

g. Persons assigned to hazardous, trying, or unusually arduous work for periods in excess of 72 hours be paid in a lump sum an amount to be authorized by the Deputy Director (Support) upon recommendation of the operating official and head of the Career Service concerned and of the Director of Personnel.

h. The Deputy Director (Support) authorize compensation for overtime at rates higher than given above in special and exceptional cases, such as unusual work load situations in the Office of Communications, after hours language instruction, and security investigators.

i. The Comptroller's program of education be continued with particular emphasis on the arrangement of the work-week to prevent unwarranted claims for work one hour before the official beginning of the work-day and one hour after the official close of business.

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